UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,886	08/27/2001	Kevin O'Rourke	2001P07800US01	4813

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Elsa Keller
SIEMENS CORPORTION
Intellectual Property Department, Legal Assistant
186 Wood Avenue South
Iselin, NJ 08830

EXAMINER
NGUYEN, LE V

ART UNIT	PAPER NUMBER
2174	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)	
Advisory Action ***Before the Filing of an Appeal Brief***	09/939,886	O'ROURKE, KEVIN	
	Examiner	Art Unit	
	Le Nguyen	2174	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>23 March 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

Kristine Kincaid

KRISTINE KINCAID

SUPERVISORY PATENT EXAMINER

TECHNOLOGY CENTER 2100

Applicant's arguments with respect to claims 7, 9, 10, 11, 13, 15 and 16 have been fully considered but they are not persuasive. Applicant argued the following:

(a) Neither Mayaud nor Evans alone or together show, suggest or contemplate a first portable processing device that enables a user to select information to be transferred in response to user command, establish a biderectional communication link with a second portable processing device and communicate patient identification information and the selected information on the established communication link in response to user selection of a displayed icon.

(b) The modified Mayaud does not show or suggest sequential initiation of communication on individual communication links, one at a time, using associated corresponding communication settings until an acknowledgement is received within a predetermined time-out window indicating a communication link with a second portable processing device is established and including at least two of a connection via a PC compatible serial port or an infrared link thereof or an Ethernet compatible network and/or an infrared link thereof and two of a data rate, protocol identifier, sender identifier code, error handling code identifier and/or data format identifier as well as two of a username, password, patient identifier, patient gender identifier, patient birth date and/or calling application identification supporting return of control to the calling application upon completion of communication on an established communication link. Moreover, the modified Mayaud alone or together does not suggest employing this process in combination with providing updated patient record information to a patient record information repository.

(c) Mayaud, Evans and IE does not show or suggest repeating the initiating communication step for a predetermined number of times until a connection is established or a communication failure is declared nor does the teaching of Evans, Rothschild and IE suggest automatically upon detection of a lost connection to support seamless operation of the portable processing device.

Per (a), the office action clearly indicates the modified Mayaud's teaching of a first portable processing device that enables a user to select information to be transferred in response to user command, establish a biderectional communication link with a second portable processing device and communicate patient identification information and the selected information on the established communication link in response to user selection of a displayed icon (Mayaud: Abstract; figs. 1 and 16; col. 10, lines 11-31; col. 50, lines 48-54; Evans: figs. 3, 5-8 and 19-22; col. 9, lines 10-14; wherein the portable device(s) may both send and receive communication, e.g. electronic mail).

Per (b), the modified Mayaud does teach repetitive sequential initiation of communication on individual communication links, one at a time, using associated corresponding communication settings (IE: pages 1-2; i.e. users may repetitively and sequentially select communication links, one at a time, via menus/submenus to establish communication for such scenarios as when a line is down or busy). Moreover, the modified Mayaud teaches: authorizing a second user access to the selected information, the second user being an intended recipient of the communicated selected information, inhibiting communication of the selected information on the established communication link in response to unsuccessful validation of second user authorization to access the communicated selected information and receiving second user authorization information identifying a second user's authorization to access the selected information (Mayaud: col. 10, lines 20-31); storing a plurality of communication settings associated with a plurality of corresponding communication links wherein an acknowledgement is received within a predetermined time-out window, indicating a communication link with a second portable processing device is established (Mayaud: col. 12, lines 18-33; fig. 3; col. 42, lines 9-12; col. 25, lines 15-19; the message "Remote Retrieval" is displayed when additional time is taken to access remote databases while update button 58 in window 39 can be a simple blinking indicator alerting the user that their device is communicating with the host computer) and sequentially initiating communication on individual communication links, one at a time, using associated corresponding communication settings (IE: pages 1-2); including at least two of a connection via a PC compatible serial port or an infrared link thereof or an Ethernet compatible network and/or an infrared link thereof (Mayaud: col. 45, line 35 through col. 46, line 15); including at least two of two of a data rate, protocol identifier, sender identifier code, error handling code identifier and/or data format identifier (IE: pages 1-3; Mayaud: fig. 3; col. 42, lines 9-12; col. 25, lines 15-19; col. 45, line 35 through col. 46, line 15); and, including at least two of a username, password, patient identifier, patient gender identifier, patient birth date and/or calling application identification supporting return of control to the calling application upon completion of communication on an established communication link(Mayaud: col. 10, lines 12-15 and 44-51).

Per (c), while the modified Mayaud teaches a method for transferring medical record information of a patient between portable processing devices wherein a step of sequentially initiating communication is performed to establish communication (Mayaud: fig. 3; col. 42, lines 9-12; col. 25, lines 15-19), the teachings extracted from Rothschild was for the feature of transferring medical record information of a patient between processing devices (9[0086]) wherein a step of sequentially initiating communication is performed automatically upon detection of a lost connection to support seamless operation (9[0088]). Furthermore, the modified Mayaud teaches that the established communication link with the second portable processing device includes a wireless link (Evans: Abstract; figs. 3, 5-8 and 19-22; col. 9, lines 10-14; in a wireless portable computing environment, healthcare providers may communicate with other healthcare providers to obtain patient data such as in the case of a request for transfer patient information) and that the communication settings comprise a set of communication settings applicable to a corresponding individual communication link and wherein the initiating communication step comprises initiating communication on the plurality of communication links one at a time in a predetermined sequential order and including the step of repeating the initiating communication step for a predetermined number of times until a connection is established or a communication failure is declared (IE: pages 1-2; Mayaud: fig. 3; col. 42, lines 9-12; col. 25, lines 15-19). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., automatically) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).